



REPUBLIC OF SAN MARINO

The Italian text shall be legally binding

**We the Captains Regent
of the Most Serene Republic of San Marino**

Having regard to Article 4 of Constitutional Law no. 185/2005 and to Article 6 of Qualified Law no. 186/2005;

Promulgate and make public the following Constitutional Law approved by the Great and General Council in its sitting of 15 September 2011 with 45 votes in favour, 6 votes against, 1 abstention and 1 not voting:

CONSTITUTIONAL LAW NO. 2 OF 16 SEPTEMBER 2011

BODIES OF THE JUDICIAL POWER

Art. 1

Article 2 of Constitutional Law no. 144 of 30 October 2003 shall be modified as follows:

“Art. 2

(Bodies of the judicial power)

In compliance with the Statutes and with the Declaration on the Citizens' Rights and Fundamental Principles of San Marino Constitutional Order, the Magistrates of the Republic shall exercise the Judicial Power, shall perform institutional tasks without any relationship of subordination and shall be liable according to the law.

The Magistrates, bound by the duties and entitled to the rights established by the law, as a guarantee for the objectivity and impartiality with which they shall be required to exercise their functions, shall benefit from special personal and economic guarantees, as well as relative to their status, as provided for by the law, by the international treaty law and by the customary international law.

The bodies of the judicial power shall include the Highest Judge of Appeal, the Judge of Appeal, the Law Commissioner and the Clerk.

Extraordinary jurisdictional functions in the cases provided for by the law shall be assigned to the Judge of Extraordinary Remedies.

Civil liability action of magistrates shall be entrusted to the Judges for Civil Liability Actions of Magistrates.

The Judges shall exercise all jurisdictional functions expressly entrusted to them by the law. The Clerk shall assist the Law Commissioner in his/her activities. The Law Commissioner may assign or delegate to the Clerk investigating functions in civil, criminal and administrative matters.

More than one judge may be assigned to any single judicial office and each judge shall be guaranteed all jurisdictional functions. Qualified law on the judicial system shall discipline substitutions among judges of the same instance.

The *Procuratore del Fisco* shall be the Prosecuting Magistrate.”.

Art. 2

The following paragraph shall be added after the first paragraph of Article 4 of Constitutional Law no. 144 of 30 October 2003:

“The Judge of Extraordinary Remedies in civil matters shall be responsible for adopting the decision authorising the reopening of a case declared time-barred.”.

Art. 3

The third paragraph of Article 5 of Constitutional Law no. 144 of 30 October 2003 shall be modified as follows:

“The Guarantors’ Panel on the Constitutionality of Rules composed of a single member shall decide on the abstention and objection of the Judges of Extraordinary Remedies and of the Judges for Civil Liability Actions of Magistrates.”.

Art. 4

Article 8 of Constitutional Law no. 144 of 30 October 2003 shall be modified as follows:

“Art. 8 (Review action)

The Magistrates of the Republic shall be responsible for the acts done while performing their functions and may be called to answer for such acts through the review action.

The power of initiative relative to the review action shall be exercised by the Judicial Council in its ordinary meeting, by at least one third of the Judicial Council in its plenary meeting or by at least one third of the members of the Parliamentary Commission for Justice.

The procedures concerning the review action shall be established by a specific ordinary law.

The decision relative to the review action shall be transmitted to the interested Magistrate, to the Parliamentary Commission for Justice, to the Bureau of the Great and General Council and to the Judicial Council in its plenary meeting, which, in compliance with said decision, shall declare the Magistrate disqualified from holding office, if it is established that the essential requirements to remain in office no longer exist, or may decide to dismiss the Magistrate if it is established that he/she has undermined the confidence, respect, moral and professional esteem entrusted to him/her, or the prestige of justice administration.

The Judicial Council in its plenary meeting may order the precautionary suspension of the office while the review action is being carried out, pending its finalisation. In this case, the Magistrate shall receive a maintenance payment, the amount of which shall be equal to half the basic remuneration established by the law for that office.”.

Art. 5

This Law shall enter into force on the fifth day following that of its legal publication.

Done at Our Residence, on 16 September 2011/1711 since the Foundation of the Republic.

THE CAPTAINS REGENT
Maria Luisa Berti – Filippo Tamagnini

THE SECRETARY OF STATE
FOR INTERNAL AFFAIRS
Valeria Ciavatta